

DOCKET NO: 265257US8PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
KAZUHIRO IKEDA : EXAMINER: ELLEN E. KIM  
SERIAL NO: 10/522,751 :  
FILED: JANUARY 4, 2006 : GROUP ART UNIT: 2874  
FOR: POLARIZATION MODE :  
DISPERSION COMPENSATOR,  
POLARIZATION MODE DISPERSION  
COMPENSATING METHOD, AND ITS  
APPLICATION TO OPTICAL  
COMMUNICATION SYSTEM

PROVISIONAL ELECTION OF SPECIES

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species Requirement dated May 3, 2007, Applicant provisionally elects, with traverse, Species I, shown in Figure 10, Claims 9 and 11 are readable thereon. Support for Claim 11 is at least found in Fig. 10 and paragraphs [0093] ~ [0097] of the published patent specification. Applicant is entitled to consideration of claims, directed to additional non-elected species, which include the limitations of an allowable generic claim, as provided by 37 C.F.R. 1.141(a).

Applicant traverses the outstanding requirement as the outstanding requirement has not established that an undue burden would be required if the requirement was not issued and if all the claims were examined together. More particularly, MPEP §803 states:

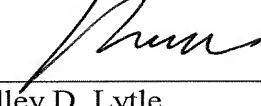
If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present application no undue burden has been established if each of the claims were examined together. In contrast, the present requirement subjects the Applicant to the added financial burden of prosecuting Claims 1-8, Claim 10 and Claims 12-16 in separate proceedings.

Therefore, Applicants respectfully request that the requirement to elect a single disclosed species be reconsidered and withdrawn,<sup>1</sup> and that a full examination on the merits of Claims 1-16 be conducted.

Respectfully submitted,

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<sup>1</sup>See MPEP 821.01.